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April 7, 2022

**VIA ECF**

The Honorable Rachel P. Kovner  
U.S. District Court for the Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

**Re: *Orbis Global Equity LE Fund (Australia Registered) v. Vale S.A.*,  
No. 21 Civ. 6590 (RPK) (RML)**

Dear Judge Kovner:

We write on behalf of Plaintiffs Orbis Global Equity LE Fund (Australia Registered), Orbis Global Equity Fund (Australia Registered), Orbis Global Balanced Fund (Australia Registered), Orbis SICAV, Orbis Institutional Funds Limited, Orbis Global Equity Fund Limited, Orbis Institutional Global Equity L.P., and Orbis OEIC (collectively, “Plaintiffs”) in the above-referenced action to provide a status report on this litigation pursuant to the Court’s April 6, 2022 docket order.

**Background.** This is a securities fraud action asserting claims under Sections 10(b), 18, and 20(a) of the Securities and Exchange Act of 1934 (the “Exchange Act”), as well as common law fraud, on behalf of Plaintiffs against Vale S.A. (“Vale”) and certain of Vale’s current and former executive officers, Murilo Ferreira, Fabio Schvartsman, Luciano Siani Pires, Gerd Peter Poppinga, and Luiz Eduardo Froes do Amaral Osorio (collectively, the “Individual Defendants,” and together with Vale, “Defendants”). Vale is a Brazilian corporation and the Individual Defendants are Brazilian residents.

**Service of Process.** Defendants’ counsel has been authorized to accept service of the Summonses and Complaint on behalf of Defendants. The parties have negotiated a Stipulation and Proposed Order that memorializes this agreement, which is attached hereto as **Exhibit A**. The Stipulation and Proposed Order also addresses the timing of Defendants’ anticipated partial motion to dismiss and the Plaintiffs’ participation in discovery in a related case, which are further discussed below.

**Participation in Discovery in the Class Action and Partial Motion to Dismiss.** This action is related to a putative class action, *Rauch v. Vale S.A.*, No. 19 Civ. 526 (RJD) (SJB), pending in this District before Judge Raymond J. Dearie (the “Class Action”). On May 20, 2020, Judge Dearie denied Defendants’ motion to dismiss the Class Action and, on July 23, 2020, he denied Defendants’ motion for reconsideration. Fact discovery in the Class Action has commenced with Defendants having produced documents and several fact depositions scheduled for May.

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To promote efficiency and avoid witnesses (many of whom are foreign) having to sit for multiple depositions, the parties to the above-referenced action have agreed that, to the extent practicable, Plaintiffs will attend and participate in the fact witness depositions of defense witnesses and nonparties taken in the Class Action, subject to a mutually agreed upon deposition protocol. In order for that to happen, Defendants have agreed to produce to Plaintiffs immediately all documents and other discovery materials produced in the Class Action so that Plaintiffs may prepare for the upcoming depositions in the Class Action. The discovery produced in the Class Action is subject to a confidentiality protective order. Thus, it is necessary for the parties to enter into a similar order here for Plaintiffs to participate in the Class Action depositions and receive the discovery produced in the Class Action. Accordingly, the parties have agreed to the Confidentiality Order attached hereto as **Exhibit B**. Attached hereto as **Exhibit C** is a blacklined version of the Confidentiality Order that shows the parties' alterations to Magistrate Judge Levy's Standing Confidentiality Order.

Defendants have indicated that in response to Plaintiffs' Complaint, they intend to file a partial motion to dismiss. The Private Securities Litigation Reform Act ("PSLRA") provides for a stay of discovery during the pendency of a motion to dismiss a complaint asserting securities fraud unless "particularized discovery is necessary to preserve evidence or to prevent undue prejudice . . ." 15 U.S.C. § 78u-4(b)(3)(B). Thus, as reflected in the Stipulation and Proposed Order attached hereto as Exhibit A, the parties request that the Court partially lift the PSLRA's discovery stay during the pendency of Defendants' anticipated partial motion to dismiss so that the Plaintiffs may receive the documents and discovery materials produced in the Class Action and attend and participate in the fact witness depositions scheduled in the Class Action.

***Transfer as a Related Action.*** Now that Defendants' counsel has been authorized to accept service on behalf of all Defendants, Plaintiffs expect to move shortly to have this case transferred to Judge Dearie pursuant to Section 50.3.1 of this District's Guidelines for the Division of Business Among District Judges. The parties nevertheless request that Your Honor enter the attached (a) Stipulation and Proposed Order and (b) Confidentiality Order so that Defendants may produce to Plaintiffs the documents and other discovery materials produced in the Class Action and Plaintiffs may attend the upcoming fact witness depositions scheduled in the Class Action. It is anticipated that no further judicial action in this case will be required until Defendants' partial motion to dismiss has been briefed, at which point we anticipate that the transfer to Judge Dearie will have occurred (should the designated judge agree that such transfer is appropriate).

Thank you for your time and attention to this matter. We are available at the Court's convenience to answer any additional questions that the Court may have.

Respectfully submitted,

/s/ Michael J. Hampson

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cc: Defendants' Counsel:  
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